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 the Sports Shinko Companies

FILED IN THE
 UNITED STATES DISTRICT COURT
 DISTRICT OF HAWAII

DEC 10 2007 ✓
 at 3 o'clock and 45 min. bM
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LODGED

DEC 07 2007
 KDP pm AJ
 CLERK, U.S. DISTRICT COURT
 DISTRICT OF HAWAII

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAI'I

SPORTS SHINKO CO., LTD.,) CV 04-00124 BMK
) CV 04-00127 BMK
Plaintiff,)
) CONSOLIDATED CASES
vs.)
QK HOTEL, LLC, et al.,) STIPULATION TO SEAL AND
) ALLOW FILING OF
Defendants,) REDACTED EXHIBITS
and) RELATED TO THE KG
) DEFENDANTS' MOTION FOR

FRANKLIN K. MUKAI, et al.,) **PARTIAL SUMMARY**
Third-Party Plaintiffs,) **JUDGMENT FILED MAY 10,**
vs.) **2007, SCHEDULE OF**
SPORTS SHINKO (USA) CO.,) **PROPOSED**
LTD., et al.,) **REDACTED/SEALED**
Third-Party) **EXHIBITS AND FILINGS;**
Defendants,) **ORDER**
and)
SPORTS SHINKO (HAWAII) CO.,)
LTD., et al.,)
Third-Party Defendants/)
Counterclaimants,)
vs.)
QK HOTEL, LLC, et al.,)
Third-Party Counterclaim)
Defendants.)
AND CONSOLIDATED CASES)

)

**STIPULATION TO SEAL AND ALLOW FILING OF REDACTED
EXHIBITS RELATED TO THE KG DEFENDANTS' MOTION FOR
PARTIAL SUMMARY JUDGMENT FILED MAY 10, 2007**

Plaintiff and Third Party Defendants Sports Shinko Co., Ltd., Sports Shinko (USA) Co., Ltd., Sports Shinko (Hawaii) Co., Ltd., Sports Shinko (Mililani) Co., Ltd., Sports Shinko (Kauai) Co., Ltd., Sports Shinko (Pukalani) Co., Ltd., Sports Shinko (Mililani) Co., Ltd., Sports Shinko (Waikiki) Corporation, and Ocean Resort Hotel Corporation (collectively "**Sports Shinko**"); Defendants, Third Party Plaintiffs and Third Party Counterclaim Defendants KG Holdings, LLC, QK Hotel, LLC, OR Hotel, LLC, Pukalani Golf Club, LLC, KG Maui Development, LLC, Mililani Golf Club, LLC, Kiahuna Golf Club, LLC and KG Kauai Development, LLC (collectively, "**KG**"); and Defendant and Third Party Plaintiff Franklin Mukai ("**Mukai**"), through their respective counsel, hereby recite and stipulate as follows:

RECITALS:

WHEREAS on May 10, 2007, KG filed a Motion for Partial Summary Judgment (the "Motion"). In support of the Motion, KG noted that filed certain Exhibits were to be filed under seal or with redactions as listed in the attached Schedule of Redacted Exhibits and Filings (the "Schedule");

WHEREAS on August 24, 2007, Sports Shinko filed a memorandum in opposition to the Motion (the “MIO”). In support of the MIO, Sports Shinko noted that certain Exhibits and filings were to be filed under seal or with redactions, as listed in the attached Schedule;

WHEREAS on October 19, 2007, KG filed a reply memorandum in support of the Motion (the “Reply”). In support of the Reply, KG noted that certain Exhibits and filings were to be filed under seal or with redactions as listed in the attached Schedule;

WHEREAS Sports Shinko asserts that the Exhibits and filings listed in the Schedule attached hereto contain financial, tax, third party and other information related to Sports Shinko and third parties to this litigation that has been designated as confidential under the Stipulated Protective Orders entered herein on January 25, 2005 and amended on April 10, 2007 (collectively, the “SPO”) and that Sports Shinko seeks to protect that information from public disclosure by redacting and filing under seal the Exhibits and filings submitted to the Court as provided herein;

WHEREAS Sports Shinko asserts that “no one outside the litigation is seeking to unseal the motion or responses” or the information in the Exhibits or other filings, such as declarations or memoranda (*see Madsen v. Fortis Benefits Ins. Co.*, No. CV 04-1959-PHX-JAT, 2006 WL 1981785 (D. Ariz. Jul. 13, 2006)), and this is not a case like *Kamakana v. City and County of Honolulu*, 447 F.3d 1172 (9th Cir. 2006), in which a third party *newspaper* intervenor moved to unseal the records in a whistleblower action involving alleged police corruption;

WHEREAS 26 U.S.C. ' 6103 and other provisions of the Internal Revenue Code protect the confidentiality of “return information” as defined in IRC ' 6103(b)(2);

WHEREAS “return information” is not available to the public. *See Church of Scientology v. IRS*, 484 U.S. 9, 18 (1987); *Kamman v. United States IRS*, 56 F.3d 46, 48 (9th Cir. 1995);

WHEREAS Sports Shinko asserts that the Exhibits and filings contain other confidential financial information not available to the public;

WHEREAS the basis for redaction or sealing information in specific Exhibits and filings is more fully described in the attached Schedule;

WHEREAS the Sports Shinko Parties assert that *Kamakana v. City and County of Honolulu*, 447 F.3d 1172 (9th Cir. 2006), should not apply under the circumstances here, and that, nevertheless, safeguarding the confidentiality of the information in the Exhibits and filings constitutes a “compelling reason” to permit these Exhibits and filings to be filed under seal or in the proposed redacted form lodged with the Court; and

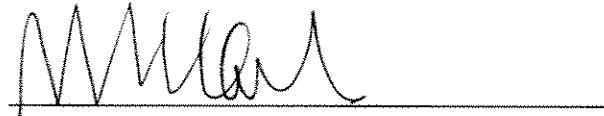
WHEREAS the non-Sports Shinko parties do not necessarily agree to or otherwise concede the accuracy of the assertions made in the preceding whereas clauses, and the non-Sports Shinko parties in the interest of judicial economy do not object to the filing of the Exhibits in the redacted form lodged herewith, provided that this Stipulation does not affect in any respect either the non-Sports Shinko parties’ substantive rights in this litigation or the future treatment of the documents and/or information so redacted;

WHEREAS *unredacted* versions of the Exhibits and filings referenced in the Schedule were lodged with the Clerk of Court on November 29, 2007 in connection with Sports Shinko's Motion to Seal or Permit Redaction of Confidential Information, filed November 28, 2007;

WHEREAS, upon the lodging of this Stipulation, counsel for the Sports Shinko will lodge with the Clerk of Court proposed redacted Exhibits and filings referenced in the Schedule that may be filed publicly,

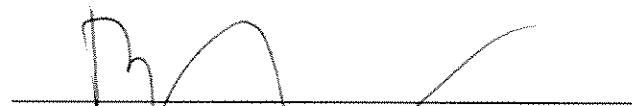
NOW THEREFORE the Parties stipulate that: (1) the Exhibits listed in Part A of the Schedule may be filed in the public record as redacted in the copies that will be lodged with the Clerk of Court when this stipulation is lodged; (2) the unredacted versions of the Exhibits lodged with the Clerk of Court on November 29, 2007 shall be filed *under seal*; and (3) KG's Exhibit 17 (a CD ROM), listed in Part B of the Schedule shall also be filed under *under seal*.

DATED: Honolulu, Hawai'i, December 1, 2007.

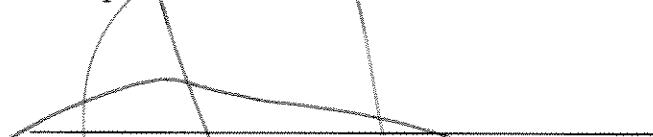


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